

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ROBERT SCOTT,

Civil No. 11-3737 (JRT/HB)

Plaintiff,

v.

LORI SWANSON, MARK DAYTON, DENNIS
BENSON, LUCINDA JESSON, CAL
LUDEMAN, GREG CARLSON, KEVIN
MOSER, DAVID PRESCOTT, JANINE
HEBERT, TOM LUNDQUIST, ELIZABETH
BARBO, STEPHANIE DANIELSON, DAN
DORAN, STEVE SAYAVITZ, DOMINIQUE
WILSON, ALLISON COLLINS, DARRIAN
MENTEN, TERRY KNEISEL, SARA KULAS,
DONALD GEIL, VICKIE ALDRIDGE, DEBBIE
THAO, JULIE ROSE, BRIAN NINNEMAN,
BLAKE CAREY, RON FISCHER, SCOTT
GIANINNI, STEVE SADJEK, HECTOR ORTIZ,
MICHELLE DALBEC, SCOTT BENOIT, ANITA
MOONEN, WILLIAM GULLICKSON, TIM
GORE, ANN ZIMMERMAN, ERIC SKON,
JULIANNA L. BEAVENS, JENNIFER ABSON,
SUE JOHNSON, JASON JOHNSON, NATE
JOHNSON, LAURIE SEVERSON, 1-4 JOHN
DOE A-TEAM MEMBERS, HENNEPIN
COUNTY SOCIAL SERVICES, and NICOLE
ARMSTRONG, *Each sued in their
individual capacity and in their Official
capacity as employees of the State
Attorney General's Office, the Governor's
Office and the Minnesota Department of
Human Services;*

**MEMORANDUM OPINION AND ORDER
DISMISSING CASE**

Defendants.

On December 29, 2011, Plaintiff Robert Scott brought this 42 U.S.C. §§ 1983 and 1985 action against Defendants alleging various violations of the U.S. Constitution and the Minnesota Civil Commitment & Treatment Act. (Compl., Dec. 29, 2011, Docket No. 1.) That same day, Scott filed a motion to proceed In Forma Pauperis and a Motion for a Temporary Restraining Order and Preliminary Injunction. (Docket Nos. 2 and 6.) Before the Court could rule on Scott's motions, however, the matter was stayed pending the outcome of *Karsjens et al. v. Piper et al.*, Civil No. 11-3659 (DWF/TNL). (Order Staying Case, Jan. 25, 2012, Docket No. 9.)

On April 2, 2020, after five amended Orders extending the stay (Docket Nos. 10, 12, 13, 14, and 15), the Court sent the parties a letter noting that the *Karsjens* matter was still pending but now fully briefed and before the Eighth Circuit, (Letter, Docket No. 16.) The Court noted that as soon as the Eighth Circuit resolved the matter the stay would be lifted. (*Id.*)

On April 24, 2020, the Court was informed by the Minnesota Department of Human Services that Scott had passed away on October 9, 2019. (Letter, Docket No. 19.)

Rule 25(a)(1) of the Federal Rules of Civil Procedure provides that:

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a)(1).

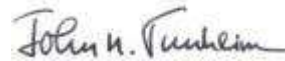
More than 90 days have passed since the Court was notified of Scott's death on April 24, 2020 and no motion to substitute has been made. Accordingly, the Court will dismiss the action by the decedent.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that this matter be **DISMISSED WITHOUT PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

DATED: September 2, 2020
at Minneapolis, Minnesota.



JOHN R. TUNHEIM
Chief Judge
United States District Court